

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUDITH J. LOACH
Deputy Attorney General
4 State Bar No. 162030
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5604
6 Facsimile: (415) 703-5480
E-mail: Judith.Loach@doj.ca.gov
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-693*

13 **KANDY KATHERINE JERVOSO**
14 **MEMPIN**
15 **526 Sheldon Avenue**
16 **Vallejo, CA 94591**

ACCUSATION

17 **Registered Nurse License No. 737473**

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about September 29, 2008, the Board of Registered Nursing issued Registered
24 Nurse License Number 737473 to Kandy Katherine Jervoso Mempin ("Respondent"). The
25 Registered Nurse License was in full force and effect at all times relevant to the charges brought
26 herein and will expire on May 31, 2014, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board of Registered Nursing ("Board"),

1 Department of Consumer Affairs, under the authority of the following laws. All section
2 references are to the Business and Professions Code unless otherwise indicated.

3 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
4 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
5 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
6 Nursing Practice Act.

7 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
8 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
9 licensee or to render a decision imposing discipline on the license.

10 6. Section 118, subdivision (b), of the Code provides that the
11 suspension/expiration/surrender/cancellation of a license shall not deprive the Board of
12 jurisdiction to proceed with a disciplinary action during the period within which the license may
13 be renewed, restored, reissued or reinstated.

14 RELEVANT LICENSING STATUTES AND REGULATIONS

15 7. Section 2761 of the Code states:

16 "The board may take disciplinary action against a certified or licensed nurse or deny an
17 application for a certificate or license for any of the following:

18 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

19 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
20 functions.

21 "..."

22 8. California Code of Regulations, title 16, section 1443, states:

23 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the
24 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
25 exercised by a competent registered nurse as described in Section 1443.5."

26 9. California Code of Regulations, title 16, section 1443.5 states:

27 "A registered nurse shall be considered to be competent when he/she consistently
28 demonstrates the ability to transfer scientific knowledge from social, biological and physical

1 sciences in applying the nursing process, as follows:

2 "(1) Formulates a nursing diagnosis through observation of the client's physical condition
3 and behavior, and through interpretation of information obtained from the client and others,
4 including the health team.

5 "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and
6 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and
7 for disease prevention and restorative measures.

8 "(3) Performs skills essential to the kind of nursing action to be taken, explains the health
9 treatment to the client and family and teaches the client and family how to care for the client's
10 health needs.

11 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the
12 subordinates and on the preparation and capability needed in the tasks to be delegated, and
13 effectively supervises nursing care being given by subordinates.

14 "(5) Evaluates the effectiveness of the care plan through observation of the client's physical
15 condition and behavior, signs and symptoms of illness, and reactions to treatment and through
16 communication with the client and health team members, and modifies the plan as needed.

17 "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve
18 health care or to change decisions or activities which are against the interests or wishes of the
19 client, and by giving the client the opportunity to make informed decisions about health care
20 before it is provided."

21 COST RECOVERY

22 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
23 administrative law judge to direct a licentiate found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
26 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
27 included in a stipulated settlement.
28

MEDICATIONS

11. Sinemet is the brand name for a medication consisting of Carbidopa and Levodopa, used to treat Parkinson's disease. Sinemet 25/100 consists of 25 milligrams of Carbidopa and 100 milligrams of Levodopa. It is available only by prescription and is classified as a dangerous drug pursuant to Business and Professions Code section 4022.

12. Sinemet CR is an extended-release combination of Carbidopa and Levodopa. It can be prescribed at a dose of 50 milligrams of Carbidopa and 200 milligrams of Levodopa (Sinemet CR 50/200). Sinemet CR should be administered no more frequently than every four (4) hours. The medication is available only by prescription and is classified as a dangerous drug pursuant to Business and Professions Code section 4022.

STATEMENT OF FACTS

13. At all relevant times, Respondent was employed at Country Villa Novato Health Care Center ("Country Villa") in Novato, California.

14. On or about December 5, 2008, Resident A was admitted to Country Villa with a diagnosis of Parkinson's disease and dementia. His attending physician had ordered Sinemet 25/100, two (2) tablets to be taken five times a day at 6:00 a.m., 9:00 a.m., 12:00 p.m., 3:00 p.m., and 6:00 p.m. In addition, Resident A was prescribed three (3) tablets of Sinemet 25/100 to be administered at 10:00 p.m., and 2:00 a.m.

15. On December 14, 2008, Resident A was admitted to a local hospital. When he returned to County Villa, the prescription for Sinemet 25/100 at 10:00 p.m., and 2:00 a.m., had been omitted by the hospital.

16. On or about December 26, 2008, Resident A complained about deterioration in functioning and feeling that his medications were "off." He requested that staff review his medication schedule.

17. On January 5, 2009, Resident A was seen by Dr. C., his treating neurologist at the University of California in San Francisco ("UCSF"). He returned to County Villas with a prescription for Sinemet CR 50/200 two tablets twice a day at 10:00 p.m., and 2:00 a.m. This prescription was written to reinstitute Resident A's usual night time doses which had been

1 omitted. The extended release formulation of Sinemet was prescribed due to a loss of the drug's
2 benefit as a result of the increased dosing intervals at night (the 10:00 p.m. and 2:00 a.m. dosing
3 schedule allowed four (4) hours between doses).

4 18. On January 6, 2009, Respondent called UCSF to clarify Resident A's prescription.
5 She wrote a new order "Change Sinemet CR 50/200 to 7x daily, 6am, 9am, 12pm, 3pm 6pm
6 10pm and 2am." Respondent failed to document who she spoke to at UCSF and failed to
7 document the number of tablets to be administered.

8 19. Dr. C. was not contacted by Respondent and he did not authorize the new prescription
9 as written by Respondent.

10 FIRST CAUSE FOR DISCIPLINE

11 (Incompetence – Failure to Accurately Clarify Prescription)

12 20. Respondent's license is subject to discipline for incompetence pursuant to Code
13 section 2761(a)(1), in that she failed to accurately clarify with Resident A's physician the
14 medication regimen for Sinemet CR. The facts in support of this cause for discipline are set forth
15 above in paragraphs 13 through 19.

16 SECOND CAUSE FOR DISCIPLINE

17 (Incompetence – Rewriting Prescription Without Physician Authorization)

18 21. Respondent's license is subject to discipline for incompetence pursuant to Code
19 section 2761(a)(1), in that she re-wrote a prescription for Sinemet CR that was never authorized
20 by Resident A's physician. The facts in support of this cause for discipline are set forth above in
21 paragraphs 17 through 19.

22 THIRD CAUSE FOR DISCIPLINE

23 (Incompetence – Failure to Accurately Document Telephone Conversation)

24 22. Respondent's license is subject to discipline for incompetence pursuant to Code
25 section 2761(a)(1), in that she failed to document who she spoke to at UCSF regarding Resident
26 A's prescription for Sinemet CR and failed to document the number of tablets to be administered.
27 The facts in support of this cause for discipline are set forth above in paragraphs 17 through 19.

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1 FOURTH CAUSE FOR DISCIPLINE

2 (Incompetence – Failure to Research Appropriate Medication Administration)

3 23. Respondent's license is subject to discipline for incompetence pursuant to Code
4 section 2761(a)(1), in that she re-wrote the prescription for Sineimet CR, with this medication
5 being administered every three (3) hours during the daytime, a schedule that a prudent nurse
6 would have recognized as being contraindicated. The facts in support of this cause for discipline
7 are set forth above in paragraph 18.

8 PRAYER

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Registered Nursing issue a decision:

11 1. Revoking or suspending Registered Nurse License Number 737473, issued to Kandy
12 Katherine Jervoso Mempin;

13 2. Ordering Kandy Katherine Jervoso Mempin to pay the Board of Registered Nursing
14 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
15 Professions Code section 125.3;

16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: MARCH 2, 2013

18 *for* Stacie Ben
19 LOUISE R. BAILEY, M.ED., RN
20 Executive Officer
21 Board of Registered Nursing
22 Department of Consumer Affairs
23 State of California
24 Complainant

25 SF2012402189